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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,034	03/15/2001	Tadoru Tomiyasu		4890

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EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/808,034

Applicant(s)

TOMIYASU ET AL.

Examiner

Elizabeth M Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/19/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 1771

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/19/03 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 7, 9-11, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by

Campbell et al, U.S. Patent No. 3,842,437. Campbell et al discloses a strip comprising two types of warp threads which are interwoven with a weft thread in a leno weave. The weft yarn may comprise a polyester yarn. The edges of the strip may be smoothly woven. Since Campbell et al discloses the claimed structure, the Campbell et al strip would inherently function as an anti-slip strip, as well as form a plurality of spaced apart nubs. Campbell teaches that the strip does not shift in use. See col 5, lines 5-10. One of the warp yarns may comprise a wrapped spandex, (i.e. polyurethane), yarn. See col. 2, lines 25-35 and 42-44; col. 3, lines 20-25 and lines 63-65; col. 4, lines 47-61.

Art Unit: 1771

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 8, 12, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Campbell et al, U.S. Patent No. 3,842,437. Campbell discloses a strip as set forth above

Campbell et al differs from the claimed invention because Campbell et al does not teach

employing a bare polyurethane as one of the two warp yarns. However, it would have been

obvious to have employed a bare polyurethane as the second of the warp yarns because the use of

bare polyurethane yarns would further enhance the stretch of the strip without adding excess bulk.

With regard to the particular type of polyester yarn claimed in the edge portions in claim 9,

Campbell teaches employing texturized polyester yarns, which presumably would correspond to

woolie polyester. It would have been obvious to also incorporate polyester monofilaments and

other polyester filaments since all of these types of polyesters filaments are well known in the art

as being useful for forming garments and garment trimming. With regard to claims 15-16,

Campbell does not disclose the particularly claimed garments, however, Campbell does teach

employing the strips on garments to keep them from rolling and bunching. Therefore, it would

have been obvious to have employed the strips on various garments, motivated by the expectation

that the strips would prevent or minimize slipping, rolling and bunching of the garments.

Art Unit: 1771

6. Claims 5-6, 13-14, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al as applied to claims 1-5, 7-11, 13 above, and further in view of Yabu, U.S. Patent No. 4,507,343. Campbell teaches employing a leno weave which comprises two different warp threads and a weft thread, so presumably the strip of Campbell would inherently possess an antislip property. Yabu teaches that leno weaves may be formed so that they comprise a pile surface which corresponds to the claimed nubs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the leno weave disclosed by Yabu in the strip of Campbell in order to further enhance the non-slip properties of the strip. Campbell does not disclose the particularly claimed garments, however, Campbell does teach employing the strips on garments to keep them from rolling and bunching. Therefore, it would have been obvious to have employed the strips on various garments, motivated by the expectation that the strips would prevent or minimize slipping, rolling and bunching of the garments.

7. Applicant's arguments filed 6/19/03 have been fully considered but they are not persuasive.

With regard to the 102(b) rejection over Campbell, Applicant argues that the Campbell reference does not teach a roughened or irregular surface as is claimed. However, since the Campbell reference teaches a leno weave formed from two different warp yarns, which is the claimed structure, the Campbell structure would have to be the same as the claimed structure. Applicant argues that Campbell would not necessarily provide a roughened or irregular surface. However, while Campbell does not state that the surface is roughened or irregular, the structure disclosed in Campbell is identical to the claimed structure, and therefore, must have the same

Art Unit: 1771

properties of being irregular and roughened. The specification of the instant application relates the roughened or irregular surface to the yarns employed and the manner in which they are interlaced. Campbell teaches both of these elements. Additionally, it is noted that Campbell employs the leno weave strips for the same reason as Applicant, to keep garments from slipping.

With regard to claim 7, Applicant argues that claim 7 recites an antislip strip and Campbell does not disclose an antislip fabric. However, Campbell teaches at col. 1 that the strip is made so as to prevent the waistband from bunching and rolling over during use. Therefore, Campbell teaches an antislip strip.

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 1771

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c

August 18, 2003